

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

JEFFREY A. WOGENSTAHL,

Petitioner,

-vs-

BETTY MITCHELL, Warden,

Respondent.

Case No. 1:99-cv-843

District Judge Thomas M. Rose

Chief Magistrate Judge Michael R. Merz

**ENTRY AND ORDER OVERRULING JEFFREY A. WOGENSTAHL'S
OBJECTIONS (Doc. #156) TO CHIEF MAGISTRATE JUDGE MICHAEL
R. MERZ'S REPORT AND RECOMMENDATIONS (Doc. #152);
OVERRULING JEFFREY A. WOGENSTAHL'S OBJECTIONS (Doc.
#162) TO CHIEF MAGISTRATE JUDGE MICHAEL R. MERZ'S
SUPPLEMENTAL REPORT AND RECOMMENDATIONS (Doc. #161);
ADOPTING CHIEF MAGISTRATE JUDGE MERZ'S REPORT AND
RECOMMENDATIONS AND SUPPLEMENTAL REPORT AND
RECOMMENDATIONS IN THEIR ENTIRETY AND TERMINATING
THIS CASE**

This is a habeas action brought by Petitioner Jeffrey A. Wogenstahl ("Wogenstahl") pursuant to 28 U.S.C. § 2254. In his Amended Traverse, Wogenstahl seeks relief from both his conviction for aggravated murder with death specifications and the resulting death sentence.

An original Report and Recommendations (doc. #152) was filed on January 3, 2007, and Wogenstahl's Objections thereto (doc. #156) were filed on March 15, 2007. The Chief Magistrate Judge then filed a Supplemental Report and Recommendations.

This matter is before the Court pursuant to Wogenstahl's Objections (doc. #162) to the Supplemental Report and Recommendations of Chief Magistrate Judge Michael R. Merz (doc. #161). The Supplement Report and Recommendations was filed on July 10, 2007, and

Wogenstahl's Objections thereto were filed on July 27, 2007. The original and Supplemental Report and Recommendations address Wogenstahl's Petition for a Writ of Habeas Corpus.

The Warden did not file objections to either of the Report and Recommendations but did file memoranda in opposition to Wogenstahl's Objections to both. Wogenstahl's Objections to both the Report and Recommendations and the Supplemental Report and Recommendations are, therefore, ripe for decision.

Wogenstahl's Amended Traverse identifies Twenty-Eight Grounds for Relief, several of which have subclaims. The original Report and Recommendations addresses all of Wogenstahl's Grounds for Relief and recommends dismissal of Wogenstahl's Petition for a Writ of Habeas Corpus with prejudice.

Wogenstahl did not object to the initial Report and Recommendations' denial of relief on claims 2(i), 2(ii), 2(iv), 3, 4, 5, 6, 7, 8, 9, 10, 11, 12(i), 12(vii), 12(viii), 13(i), 13(ii), 13(iii), 13(iv), 13(v), 13(vii), 15, 17, 19, 20, 22(i), 22(ii), 22(iii), 24, 25, 26 and 28. He, therefore, abandons these claims.

Chief Magistrate Judge Merz then issued a Supplemental Report and Recommendations which further addresses the claims that were discussed in Wogenstahl's Objections to the original Report and Recommendations. The Supplemental Report and Recommendations also recommends dismissal of Wogenstahl's Petition for a Writ of Habeas Corpus. Wogenstahl objected to the Supplemental Report and Recommendations.

As required by 28 U.S.C. §636(b) and Federal Rules of Civil Procedure Rule 72(b), the District Judge has made a de novo review of the record in this case. Upon said review, the Court finds that Wogenstahl's objections to the Chief Magistrate Judge's Report and

Recommendations and his objections to the Chief Magistrate Judge's Supplemental Report and Recommendations are not well-taken, and they are hereby OVERRULED. The Chief Magistrate Judge's Report and Recommendations and his Supplemental Report and Recommendations are adopted in their entirety.

Wogenstahl's Petition for a Writ of Habeas Corpus is dismissed with prejudice. Further, the captioned cause is hereby ordered terminated upon the docket records of the United States District Court for the Southern District of Ohio, Western Division, at Dayton.

DONE and **ORDERED** in Dayton, Ohio, this Twelfth day of September, 2007.

s/Thomas M. Rose

THOMAS M. ROSE
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record